

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
BRIAN PORTER

Plaintiff,

-against-

JOHN E. POTTER,
Postmaster General

Defendant.
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NOT FOR PUBLICATION
ORDER

04 CV 1255 (CBA)

AMON, UNITED STATES DISTRICT JUDGE

This Court has received the report and recommendation of the Honorable Lois Bloom, United States Magistrate Judge, recommending that the defendant's motion for dismissal or, in the alternative, summary judgment be construed as a motion for summary judgment and granted, dismissing plaintiff's complaint in its entirety. No party has filed objections to the report and recommendation.

The Court hereby adopts the report and recommendation as the opinion of the Court, with the following observation. An additional reason to deny the plaintiff's request for equitable tolling of the filing deadline in EEO case number 1A-116-0025-03, discussed on page 12 of the report and recommendation, is the fact that the letter from Specialist Larry Brown to the plaintiff clearly informed the plaintiff that he had fifteen calendar days "from the receipt of this letter" to file a formal complaint. Gandy Decl., Ex. C.

The Clerk of the Court is directed to enter judgment in accordance with this Order.

SO ORDERED.

Dated: Brooklyn, New York
September 28, 2005

Carol Bagley Amon
United States District Judge